

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Patent Application of:
Petra Cirpus et al.

Application No.: 10/590,958

Confirmation No.: 9681

Filed: August 25, 2006

Art Unit: 1638

For: METHOD FOR PRODUCING
UNSATURATED OMEGA-3-FATTY ACIDS
IN TRANSGENIC ORGANISMS

Examiner: Elizabeth F. McElwain

RESPONSE TO RESTRICTION REQUIREMENT

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Dear Madam:

In response to the restriction requirement set forth in the Office Action mailed March 27, 2009, Applicants provisionally elect Group I, claims 1-9, drawn to a process of producing fatty acids, with traverse. Applicants believe that there is no undue burden on the Examiner to search and examine all Groups together.

Furthermore, unity of invention was found during the International stage. As shown in the International Preliminary Report on Patentability and International Search Report, all claims were searched and examined together. Thus, application of PCT Rules 13.1 and 13.2 by the International Examiners shows that unity exists. Since the search has already been conducted by the International Search Authority and the International Examination Authority and no lack of unity of invention has been found, for this additional reason, there would be no undue burden on the Examiner to examine all Groups in one application.

Alternatively, Applicants believe that there is no undue burden on the Examiner to search and examine all the claims in Groups I-IV together because the same art relevant to the process claimed in Group I would be also relevant to the oil, lipid or fatty acids produced by said process as recited in Group II or the products comprising said oil, lipid or fatty acids so produced as

recited in Group IV. Similarly, the same art relevant to the process claimed in Group I would be also relevant to a process to mix the oil, lipid or fatty acids so produced by said process as recited in Group III. Because the same art and field of search would be relevant to all the claims included in those Groups, there would be no undue burden on the Examiner to examine at least claims 1-13 together. Accordingly, Applicants respectfully request that the Examiner reconsider the restriction requirement and examine in one application at least claims 1-13.

The Examiner further requires that, if Group I is elected, one of each of the enzyme activities listed in parts (a) and (b) of claim 1 as well as the corresponding SEQ ID NO need also be elected. A telephonic communication with the Examiner on March 30 and March 31, 2009 confirmed that this additional election requirement was made in error. Accordingly, no further sequence election is made in this response.

Applicants reserve all rights to pursue the non-elected subject matter in one or more divisional application.

This response is filed within the one month period for response from the mailing of the Office Communication. No fee is believed due. However, if a fee is due, the Director is hereby authorized to charge our Deposit Account No. 03-2775, under Order No. 13987-00019-US from which the undersigned is authorized to draw.

Respectfully submitted,

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